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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Carol Davis, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

HDR, Inc.,

Defendant.

Case No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff Carol Davis (“Plaintiff”), individually and on behalf of all others  
2 similarly situated, by and through her attorneys, makes the following allegations  
3 pursuant to the investigation of her counsel and based upon information and belief,  
4 except as to allegations specifically pertaining to herself and her counsel, which are  
5 based on personal knowledge.

#### 6 **NATURE OF THE ACTION**

7 1. This is a class action suit brought against Defendant HDR, Inc. (“HDR”  
8 or “Defendant”) for wiretapping the electronic communications of members of the  
9 following private Facebook groups (the “Group Members”): Ahwatukee411 and  
10 Protecting Arizona’s Resources & Children (PARC) (“PARC”) (collectively, the  
11 “Private Facebook Groups”). The wiretaps are used by Defendant to secretly observe  
12 and monitor Group Members’ electronic communications and confidential postings in  
13 the Private Facebook Groups, through the use of monitoring tools, automated  
14 software, and dedicated employees with backgrounds in signals intelligence and  
15 communications intelligence. As such, Defendant has violated the Federal Wiretap  
16 Act, 18 U.S.C. §§ 2510, *et seq.*, violated the Stored Communications Act, 18 U.S.C.  
17 §§ 2701, *et seq.*, and violated the Group Members’ common law right to privacy.

18 2. Plaintiff Davis is a member of the Private Facebook Groups,  
19 Ahwatukee411 and PARC. Plaintiff Davis communicated with other Group  
20 Members in the Private Facebook Groups, and her communications were monitored,  
21 captured, and analyzed by Defendant. Defendant HDR is a multi-billion-dollar  
22 architecture and design firm that has designed over 275 jails and prisons, and also  
23 offers various covert surveillance services. Defendant monitored the Private  
24 Facebook Groups secretly and without consent, and gathered information about  
25 discussions in the groups in order to inform Defendant’s and its client’s marketing  
26 strategies.

27 3. Defendant conducted this monitoring by hiring employees and  
28 investigators with backgrounds in intelligence, particularly geospatial and

1 information management, and strategic communications. These employees,  
2 operating as part of Defendant's "STRATA" team, deployed automated tools and  
3 monitoring software and otherwise infiltrated the Private Facebook Groups on behalf  
4 of HDR.

5 4. Plaintiff brings this action on behalf of herself and a class of all persons  
6 whose electronic communications in the Private Facebook groups were secretly  
7 monitored and by Defendant's wiretaps.

### 8 **THE PARTIES**

9 5. Plaintiff Carol Davis is a citizen of Arizona who resides in Phoenix,  
10 Arizona with an intent to remain there. Plaintiff Davis has been a member of the  
11 Private Facebook Group, Ahwatukee411, since approximately 2015. Since 2015, and  
12 prior to the filing of this lawsuit, Plaintiff Davis posted in the Ahwatukee411 Private  
13 Facebook Group and communicated with other Group Members. Plaintiff Davis's  
14 posts discuss topics such as recommendations for services and debates involving  
15 local issues, such as the construction of a local highway and potential political  
16 corruption. Plaintiff Davis regularly posts in the Ahwatukee411 Facebook group  
17 approximately two to three times a week, and her most recent post was in October  
18 2021. Plaintiff Davis was in Phoenix, Arizona when she accessed and posted in the  
19 Ahwatukee411 Private Facebook Group. Since at least 2016, if not earlier, Plaintiff  
20 Davis's private electronic communications with other Group Members, including her  
21 communications regarding recommendations for services and debates involving local  
22 issues, were monitored, read, disclosed, intercepted in real-time, and otherwise  
23 wiretapped and/or accessed in electronic storage by HDR. Plaintiff Davis was  
24 unaware at the time that her electronic communications, including the information  
25 described above, were being intercepted in real-time and would be disclosed to HDR,  
26 nor did Plaintiff Davis consent to the same.

27 6. Plaintiff Davis has also been a member of the Private Facebook Group,  
28 PARC, since approximately 2016. Since 2016, and prior to the filing of this lawsuit,

1 Plaintiff Davis posted in the PARC Private Facebook Group and communicated with  
2 other Group Members. Plaintiff Davis's posts discussed topics such as debates over  
3 the construction of a local highway and its environmental impact. Plaintiff Davis  
4 often posts in the PARC Facebook group, and her most recent post was in  
5 approximately August 2021. Plaintiff Davis was in Phoenix, Arizona when she  
6 accessed and posted in the PARC Private Facebook Group. Since at least 2016, if not  
7 earlier, Plaintiff Davis's private electronic communications with other Group  
8 Members, including her communications regarding debates involving local issues,  
9 were monitored, read, disclosed, intercepted in real time, and otherwise wiretapped  
10 and/or accessed in electronic storage by HDR. Plaintiff Davis was unaware at the  
11 time that her electronic communications, including the information described above,  
12 were being intercepted in real-time and would be disclosed to HDR, nor did Plaintiff  
13 Davis consent to the same.

14 7. Defendant HDR, Inc. is a Delaware Corporation with its principal place  
15 of business at 1917 S. 67th Street, Omaha, Nebraska 68106.

16 8. HDR does business throughout Arizona and the entire United States.  
17 HDR contracts with numerous clients, including the Arizona-based clients that  
18 authorized the conduct here.

### 19 **JURISDICTION AND VENUE**

20 9. This Court has subject matter jurisdiction pursuant to 28 U.S.C.  
21 § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all  
22 members of the proposed class are in excess of \$5,000,000.00, exclusive of interest  
23 and costs, and at least one member of the proposed class is a citizen of a state  
24 different from Defendant.

25 10. This Court has personal jurisdiction over Defendant because Defendant  
26 has purposefully availed itself of the laws and benefits of doing business in this State,  
27 and Plaintiff's claims arise out of Defendant's forum-related activities. Furthermore,  
28

1 a substantial portion of the events giving rise to Plaintiff's claims occurred in this  
2 District.

3 11. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this  
4 action because a substantial part of the events, omissions, and acts giving rise to the  
5 claims herein occurred in this District.

## 6 **STATEMENT OF FACTS**

### 7 **I. Overview Of The Wiretaps**

#### 8 **A. Defendant's STRATA Social Media Listening Service**

9 12. HDR is a multi-billion-dollar architecture and design firm that has  
10 designed over 275 jails and prisons.

11 13. In addition to its architectural services, HDR also offers a number of  
12 other services to its clients. One of HDR's services is its "Strategic  
13 Communications" team, which "works to help our clients manage the social and  
14 political risk associated with infrastructure development .... Our teams leverage web,  
15 video and social networking and are experienced with wide-scale media campaigns  
16 that include targeted digital, print, television and radio material."

17 14. Another service offered by HDR is its Geospatial and Information  
18 Management team, which "secur[es], organiz[es] and present[s] digital information  
19 for easier access and informed decision-making. We collaborate with clients to  
20 automate workflows, connect systems, create reports and, ultimately, increase  
21 productivity."

22 15. HDR's "Strategic Communications" and "Geospatial and Information  
23 Management" teams "jointly execute" another service offered by HDR, its  
24 "STRATA" service.

25 16. STRATA is a surveillance or "social listening" service that "uses data to  
26 inform and enhance [HDR's] approach to public understanding. Our STRATA team  
27 practices data-driven engagement beyond standard demographics, and tailors public  
28 involvement and decision-making approaches specifically for every project."

1        17. As HDR formerly advertised on its website,<sup>1</sup> the goal of the STRATA  
 2 service “is to gauge and mitigate social and political risks before they affect a project  
 3 .... To be candid, STRATA exposes the truth of the human experience through  
 4 comprehensive analysis from a technical and empathic lens.”

5        18. In order to achieve these objectives, the STRATA service:

6                    [L]everage[s] commercial off-the-shelf tools to develop  
 7 powerful applications for communication strategies and  
 8 issues mapping. **These tools enable us to extract, analyze**  
 9 **and present demographics, lifestyle patterns and**  
 10 **behaviors, and market potential indices to better**  
 11 **understand the overall community.** We can quickly  
 generate reports, interactive maps, dashboards and  
 infographics to create powerful visual profiles and to assess  
 potential social and political risks.

12        19. The effect of this monitoring, Defendant claims, is saving its clients  
 13 money: “Controversy is costly, both in reputation and in dollars. Social and political  
 14 risk deserves attention at the planning stage of a project or program, where it can be  
 15 carefully assessed and when there is time to develop strategies to mitigate or diminish  
 16 risk.” Such activity is known as “corporate counterinsurgency.”

17        20. According to John Stauber, an author and expert on industry  
 18 manipulation, the purpose of HDR’s surveillance is to “survey[] and evaluat[e] public  
 19 opinion, the leadership of potential opposition groups, and citizen activists who seek  
 20 to change, delay or halt a multi-million dollar project.”

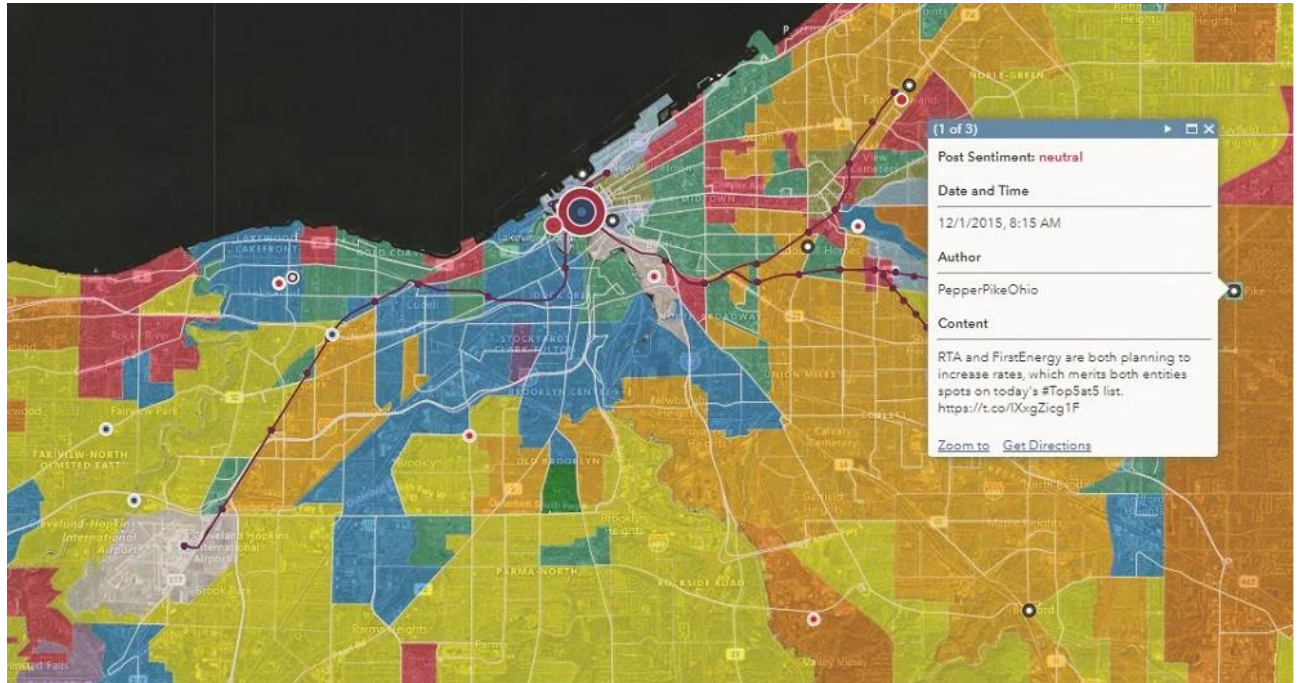
21        21. Defendant states that the STRATA team can deliver “insights” in  
 22 various forms: “Deliverables range from Excel reports to comprehensive web-based  
 23 maps. Example datasets include project data, community profiles, poverty/income,  
 24 education, employment, business summaries, race, language, digital usage and at-risk  
 25 communities.”

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26  
 27 <sup>1</sup> HDR removed references to its STRATA service from its website in or about  
 28 August 2021, after reporting by the publication *Vice* exposed HDR’s illegal  
 wiretapping.



22. Below is an example of a “comprehensive web-based map” that the STRATA team can generate. The map shows the location of a poster on a social media website, the content of a post, the post’s author, the date and time of a post, and the “sentiment” of a post:



23. In short, Defendant claims that the “STRATA team can provide **24/7 listening on social media platforms** and use sentiment analysis to determine trends, specify key influencers and identify or mitigate risk. Social media listening allows us to track project success by measuring the effectiveness of messaging and communication. Through social media listening, we can answer the following questions throughout the life of any project:

- Who are we reaching?
- What are they saying?
- Where are they?
- What are we missing?”

#### **B. Defendant Infiltrates The Private Facebook Groups**

24. In approximately December 2014, the Ahwatukee411 Private Facebook Group was formed. Ahwatukee411 is a closed Facebook group that enables local

1 residents of the Ahwatukee Foothills area to privately discuss issues concerning the  
2 community. The Ahwatukee411 group has approximately 32,400 members.

3       25. The Ahwatukee411 Private Facebook Group has always been private.  
4 In order to join the group, prospective group members are required to fill out a  
5 questionnaire discussing their involvement in the Ahwatukee community and their  
6 interest in joining the group as it relates to the community. This process is intended  
7 to ensure that only residents (*i.e.*, those with a vested interest in the Ahwatukee  
8 community) can join the group and are able to see other posts.

9       26. In approximately 2016, the Protecting Arizona's Resources & Children  
10 (PARC) Private Facebook Group was formed (although the PARC organization itself  
11 has been around since 1995). The PARC Private Facebook Group was formed to  
12 protest the construction of a highway that cuts through the Moahdak Do'ag Mountain  
13 (South Mountain), which is sacred to the local Native American community in  
14 Phoenix. The PARC Private Facebook Group enables its members to privately  
15 discuss local issues. The PARC group has roughly 930 members.

16       27. The PARC Private Facebook Group has always been private. In order to  
17 join the group, prospective group members are required to undergo a screening  
18 process. This process is intended to ensure that largely only residents (*i.e.*, those  
19 whose homes would be affected by the construction of the local highway) can join  
20 the group and are able to see other posts.

21       28. The idea of the Private Facebook Groups is that they are private and only  
22 populated with Ahwatukee local PARC members, not other persons, and certainly not  
23 employees or personnel of Defendant. Indeed, the PARC Private Facebook Group is  
24 run by persons who oppose Defendant's interests/projects and the interests/projects of  
25 Defendant's clients.

26       29. Unbeknownst to the Group Members, however, since at least 2016—and  
27 going back months if not years earlier—HDR has privately and without consent  
28 infiltrated, monitored, wiretapped, and/or accessed posts in the Private Facebook



1 Groups.<sup>2</sup>

2 30. It is unknown how Defendant infiltrated these Private Facebook  
3 Groups—whether through the use of fake social media profiles or some other  
4 method. What is known is that, again, neither Defendant nor its employees should  
5 have had access to the Private Facebook Groups, nor did the Group Members know  
6 Defendant had infiltrated the Private Facebook Groups nor consent to Defendant  
7 wiretapping their conversations.

8 31. Once Defendant infiltrated the Private Facebook Groups, it “generated  
9 an ‘influencer’ report, an analysis of public sentiment on social media platforms, and  
10 a geospatial analysis that placed communities into categories such as ‘ethnic  
11 enclaves,’ ‘barrios urbanos,’ ‘scholars and patriots,’ and ‘American dreamers.’” The  
12 analysis also involving reading and analyzing the content of the posts in the Private  
13 Facebook Group for use in the “comprehensive web-based map” described above.

14 32. Defendant monitored and/or intercepted posts in the Private Facebook  
15 Groups in real time, and/or accessed the contents of the posts in the Private Facebook  
16 Groups in electronic storage.

17 33. Notably, Defendant’s practices also violate Facebook’s Terms of  
18 Service, which state users “may not access or collect data from our Products using  
19 automated means (without our prior permission) or attempt to access data you do not  
20 have permission to access.”

21 34. These processes, as currently employed by HDR, function as a wiretap,  
22 as well as the acquisition of electronic communications in electronic storage.

## 23 **II. Defendant Wiretapped Plaintiff’s Electronic Communications**

24 35. Since approximately 2015, Plaintiff has been a member of the  
25 Ahwatukee411 Private Facebook Group.

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26  
27 <sup>2</sup> Ella Fassler, *A Company That Designs Jails is Spying On Activists Who Oppose*  
28 *Them*, VICE, Aug. 17, 2021, <https://www.vice.com/en/article/93ym4z/a-company-that-designs-jails-is-spying-on-activists-who-oppose-them>.

1        36. Plaintiff privately communicated with other Group Members in the  
2 Ahwatukee411 Private Facebook Group. Plaintiff communicated about topics such as  
3 recommendations for services and debates over local issues, including the  
4 construction of a local highway and potential political corruption.

5        37. Likewise, since approximately 2016, Plaintiff has been a member of the  
6 PARC Private Facebook Group.

7        38. Plaintiff also privately communicated with other Group Members in the  
8 PARC Private Facebook Group. Plaintiff communicated about topics such as debates  
9 over the construction of a local highway and its environmental impact.

10       39. To join both groups, Plaintiff went through a questionnaire and screening  
11 process to ensure she was an Ahwatukee resident and her interests were aligned with  
12 the PARC organization's goals.

13       40. In both the Ahwatukee411 and PARC Private Facebook Groups, Plaintiff  
14 believed she was only communicating with other Ahwatukee residents or members of  
15 the PARC organization. Plaintiff did not believe, nor did Plaintiff know or have  
16 reason to know, that her communications were being surveilled by unconsented-to  
17 third-party actors who were neither Ahwatukee residents nor persons whose interests  
18 were not aligned with the PARC organization's goals, and certainly not corporations  
19 antagonistic to the interests of the Private Facebook Groups.

20       41. Since at least 2016, Plaintiff's private posts were tracked, read,  
21 intercepted, analyzed, and otherwise wiretapped and/or accessed in electronic storage  
22 by Defendant in real time using the aforementioned processes, and without Plaintiff's  
23 consent.

#### 24                                    **CLASS ACTION ALLEGATIONS**

25       42. Plaintiff seeks to represent a class of all members of the Private  
26 Facebook Groups whose electronic communications were intercepted by Defendant  
27 (the "Class"). Plaintiff reserves the right to modify the class definition as appropriate  
28 based on further investigation and discovery obtained in the case.

1        43. Plaintiff also seeks to represent a subclass of all Class members in the  
2 State of Arizona who were members of the Private Facebook Groups, and whose  
3 electronic communications were intercepted by Defendant (the “Arizona Subclass”).  
4 Plaintiff reserves the right to modify the subclass definition as appropriate based on  
5 further investigation and discovery obtained in the case.

6        44. The Class and Arizona Subclass shall collectively be referred to as the  
7 “Classes.”

8        45. Members of the Classes are so numerous that their individual joinder  
9 herein is impracticable. Specifically, there are over 33,000 members of the Private  
10 Facebook Groups. Members of the Classes may be notified of the pendency of this  
11 action by mail, publication through the distribution records of Defendant, and via  
12 Facebook.

13        46. Common questions of law and fact exist as to all members of the Classes  
14 and predominate over questions affecting only individual members of the Classes.  
15 Common legal and factual questions include, but are not limited to, whether  
16 Defendant has violated the Federal Wiretap Act, violated the Stored Communication  
17 Act, and violated the common law right to privacy of Plaintiff and members of the  
18 Classes.

19        47. The claims of the named Plaintiff are typical of the claims of the Classes  
20 because the named Plaintiff, like all other class members, was a member of both  
21 Private Facebook Groups and had her electronic communications intercepted and/or  
22 accessed in electronic storage and disclosed to Defendant through the use of  
23 Defendant’s wiretaps.

24        48. Plaintiff is an adequate representative of the Classes because her  
25 interests do not conflict with the interests of the members of the Classes she seeks to  
26 represent, she has retained competent counsel experienced in prosecuting class  
27 actions, and she intends to prosecute this action vigorously. The interests of members  
28 of the Classes will be fairly and adequately protected by Plaintiff and her counsel.

1        49. The class mechanism is superior to other available means for the fair and  
 2 efficient adjudication of the claims of members of the Classes. Each individual  
 3 member of the Classes may lack the resources to undergo the burden and expense of  
 4 individual prosecution of the complex and extensive litigation necessary to establish  
 5 Defendant's liability. Individualized litigation increases the delay and expense to all  
 6 parties and multiplies the burden on the judicial system presented by the complex  
 7 legal and factual issues of this case. Individualized litigation also presents a potential  
 8 for inconsistent or contradictory judgments. In contrast, the class action device  
 9 presents far fewer management difficulties and provides the benefits of single  
 10 adjudication, economy of scale, and comprehensive supervision by a single court on  
 11 the issue of Defendant's liability. Class treatment of the liability issues will ensure  
 12 that all claims and claimants are before this Court for consistent adjudication of the  
 13 liability issues.

## 14        **CAUSES OF ACTION**

### 15        **COUNT I**

#### 16        **Interception And Disclosure Of Electronic Communications** 17        **In Violation Of The Federal Wiretap Act,** 18        **18 U.S.C. § 2511**

19        50. Plaintiff repeats the allegations contained in the foregoing paragraphs as  
 20 if fully set forth herein.

21        51. Plaintiff brings this claim individually and on behalf of the members of  
 22 the proposed Classes against Defendant.

23        52. As alleged herein, Defendant intentionally intercepted the electronic  
 24 communications of Plaintiff and the proposed Classes.

25        53. Each of Defendant's wiretaps, automatic monitoring tools, processes,  
 26 and software described herein, is an "electronic, mechanical, or other device" as  
 27 defined by 18 U.S.C. § 2510(5) and is primarily used for the purpose of the  
 28 surreptitious interception of electronic communications.

54. Upon information and belief, Defendant intercepts the electronic communications contemporaneously as they are sent.

55. Upon information and belief, Defendant receives and stores these messages through the employment of a mechanical or electrical tool or apparatus that is considered a device under 18 U.S.C §§ 2510, *et seq.*

56. Defendant's interception and internment of electronic communications sent between Plaintiff and members of the Classes is intentional, as alleged herein.

57. Plaintiff and members of the Classes did not consent to any of Defendant's actions in implementing wiretaps.

58. Defendant was not a party to any of these electronic communications.

59. Defendant's conduct violated 18 U.S.C. § 2511 and therefore gives rise to a claim under 18 U.S.C. § 2520.

60. Pursuant to 18 U.S.C. § 2520, Plaintiff and the Classes are entitled to the greater of actual damages or statutory damages or not less than \$100 a day for each day of violation or \$10,000, whichever is greater.

**COUNT II**

**Manufacture, Distribution, Possession, And Advertising Of An Electronic  
Communication Interception Device In Violation Of The Federal Wiretap Act,  
18 U.S.C. § 2512**

61. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

62. Plaintiff brings this claim individually and on behalf of the members of the proposed Classes against Defendant.

63. 18 U.S.C. § 2512, in pertinent part, holds “any person” liable “who intentionally:”

[M]anufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, and that such device or any component thereof has been or

will be sent through the mail or transported in interstate or foreign commerce.

18 U.S.C. § 2512(1)(b).

64. Each of Defendant's wiretaps, including the automatic monitoring tools and software described herein, are an "electronic, mechanical, or other device" as defined by 18 U.S.C. § 2510(5), and are primarily useful for the purpose of the surreptitious interception of electronic communications.

65. At all relevant times, by using automatic monitoring tools, software, and other processes and means employed by the STRATA team, Defendant intentionally manufactured, assembled, and/or possessed a device that is primarily useful for the purpose of surreptitious interception of electronic communications.

66. Defendant knew or had reason to know that its automatic monitoring tools, software, and other processes and means employed by the STRATA team—which were transported through interstate commerce over the Internet—were primarily useful for the purpose of wiretapping electronic communications.

67. Plaintiff and members of the Classes did not consent to any of Defendant's actions in implementing wiretaps.

68. Defendant was not a party to any of these electronic communications.

69. Defendant's conduct violated 18 U.S.C. § 2512 and therefore gives rise to a claim under 18 U.S.C. § 2520.

70. Pursuant to 18 U.S.C. § 2520, Plaintiff and the Classes are entitled to the greater of actual damages or statutory damages or not less than \$100 a day for each day of violation or \$10,000, whichever is greater.

### **COUNT III**

#### **Violation Of The Stored Communications Act, 18 U.S.C. §§ 2701, *et seq.***

71. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

72. Plaintiff brings this claim individually and on behalf of the members of



1 the proposed Classes against Defendant.

2 73. The Stored Communications Act (“SCA”), 18 U.S.C. §§ 2701, *et seq.*,  
3 prohibits “intentionally access[ing] without authorization a facility through which an  
4 electronic communication service is provided ... and thereby obtains, alters, or  
5 prevents authorized access to a wire or electronic communication while it is in  
6 electronic storage.” 18 U.S.C. § 2701(a)(1).

7 74. The posts in the Private Facebook Groups are “electronic  
8 communications” delivered through an “electronic communications service” as  
9 defined in 18 U.S.C. § 2510(15).

10 75. At the time Plaintiff and the Classes’ electronic communications were  
11 accessed without authorization on Facebook, the data was in “electronic storage” as  
12 required by the SCA. 18 U.S.C. § 2510(17).

13 76. At all relevant times, Defendant intentionally accessed the contents of  
14 Plaintiff’s and members of the Classes’ posts in the Private Facebook Groups, and  
15 thereby obtained the contents of posts in the Private Facebook Groups while the  
16 contents were in storage.

17 77. At all relevant times, Defendant acted without authorization.

18 78. Defendant was not a party to any of these electronic communications.

19 79. Plaintiff and members of the Classes are permitted to bring a civil action  
20 over these violations of the SCA. 18 U.S.C. § 2707(a).

21 80. Plaintiff and members of the Class seek all relief available under the  
22 SCA, including damages suffered by Plaintiff and members of the Classes for not less  
23 than \$1,000, and punitive damages. 18 U.S.C. § 2707(c).

#### 24 **COUNT IV**

#### 25 **Common Law Invasion Of Privacy/Intrusion**

26 81. Plaintiff repeats the allegations contained in the foregoing paragraphs as  
27 if fully set forth herein.

1        82. Plaintiff brings this claim individually and on behalf of the members of  
2 the proposed Classes against Defendant.

3        83. Plaintiff and members Classes have an interest in: (1) precluding the  
4 dissemination and/or misuse of their private posts in the Private Facebook Groups;  
5 and (2) being able to discuss local issues without observation, intrusion or  
6 interference, including, but not limited to, the right to join the Private Facebook  
7 Groups and interact with other Group Members without being subjected to wiretaps  
8 without Plaintiff's and members of the Classes' knowledge or consent.

9        84. As alleged above, Defendant intentionally intruded into conversations in  
10 which Plaintiff and members of the Classes had reasonable expectations of privacy.  
11 That intrusion occurred in a manner that was highly offensive to a reasonable person.

12        85. Defendant gained unwanted access to data by electronic and covert  
13 means, in violation of the law and social norms.

14        86. At all relevant times, through the wiretapping of the Private Facebook  
15 Groups, Defendant intentionally invaded Plaintiff's and members of the Classes'  
16 common law privacy rights.

17        87. Plaintiff and members of the Classes had a reasonable expectation that  
18 their posts in the Private Facebook Groups and would remain confidential and that  
19 Defendant would not infiltrate those groups and wiretap them. Indeed, such activity  
20 is expressly prohibited by Facebook's Terms of Use.

21        88. Plaintiff and members of the Classes did not consent to Defendant's  
22 wiretapping.

23        89. This invasion of privacy is serious in nature, scope and impact.

24        90. The invasion of privacy is sufficient to confer Article III standing.

25        91. This invasion of privacy alleged here constitutes an egregious breach of  
26 the social norms underlying the privacy right.

27        92. Plaintiff and members of the Classes seek all relief available for  
28 common law invasion of privacy claims under the law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendant, as follows:

- (a) For an order certifying the Classes under Rule 23 and naming Plaintiff as the representative of the Classes and Plaintiff's attorneys as Class Counsel to represent the Classes;
- (b) For an order declaring that the Defendant's conduct violates the statutes referenced herein;
- (c) For an order finding in favor of Plaintiff and the Classes on all counts asserted herein;
- (d) For compensatory, punitive, and statutory damages in amounts to be determined by the Court and/or jury;
- (e) For prejudgment interest on all amounts awarded;
- (f) For an order of restitution and all other forms of equitable monetary relief;
- (g) For injunctive relief as pleaded or as the Court may deem proper; and
- (h) For an order awarding Plaintiff and the Classes their reasonable attorneys' fees and expenses and costs of suit.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Federal Rules of Civil Procedure 38(b), Plaintiff demands a trial by jury of all issues so triable.

Dated: November 10, 2021

Respectfully submitted,

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